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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE,CIVIL JURISDICTION

FERA APPEAL NO.34 OF 2007

Mohan G. Thawardas ..Appellant

Versus

Union of India through the Director of Enforcement & Ors.)..Respondents

Shri L.S. Shetty with Shri M.S. Bhardwaj with Shri A.M. Sethna, for the Appellant.

Shri P.S. Jetly with Shri R.C. Master for Respondents

CORAM: F.I. REBELLO & S.R.SATHE,JJ.
DATED: 16TH AUGUST, 2007

P.C.:

. Heard Counsel for the parties. This is an Appeal against the order of the Appellate Tribunal whereby the penalty imposed on the Appellant herein was reduced to Rs.15.00 lakhs from Rs.50.00 lakhs. The learned Tribunal while reducing the penalty observed as under:-

> "However, having regard to the fact that the bank account in question was opened at the time when the appellant was quite young of the age of 19 years and was busy with his studies having no experience on the business world and taking into consideration the facts and circumstances of the case, we are of the view that amount of penalty imposed

against the appellant is excessive which should be reduced to 30% of the total amount of penalty imposed against the appellant to achieve the ends of justice. The Appeal is, therefore, liable to be partly allowed."

After perusing the record, we note that the appellant's name figured in an account opened with the Citibank by one Mittu Malwani, his brother in law. The name of the Appellant appeared along with other persons who were residing in the United States. Further from the material i.e. the affidavit filed by Mr. Malwani it appears that the appellant did come to know that his name was there in the bank account subsequently. It is further pointed out that he had no occasion to go to United States of America for opening the bank account during that period. It would, therefore, be clear that under these circumstances though technically there may be a violation of the provisions of the FERA Act the acts of the Appellant do not warrant imposition of fine of Rs.15.00 lakhs.

2. Considering the above we allow the appeal partly and reduce the penalty imposed to a sum of Rs.1.00 lakh. The respondents are directed to refund to the appellant the balance amount of Rs.14.00 lakhs without interest. Appeal partly allowed. There shall be no order as to costs.

(S.R.SATHE, J.) **(F.I.REBELLO, J.)**